

VII. Penal Provisions

General Provisions

The penal provisions found in Division 18 of the Elections Code apply to all elections. (§ 18000, et seq.)

Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding \$1,000 in cases of misdemeanors or up to twenty-five thousand dollars (\$25,000) in cases of felonies, in addition to the imprisonment prescribed. (§ 18001.)

Every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his or her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by the Elections Code, punishable by fine not exceeding \$1,000 or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or by both that fine and imprisonment. (§ 18002.)

Payment for Voting

A person shall not directly or through any other person pay or receive any money or other valuable consideration before, during, or after an election in order to reward any person or as a reward for voting for or against or agreeing to vote for or against the election or endorsement of any other person as the nominee or candidate of any caucus, convention, organized assemblage of delegates, or other body representing or claiming to represent a political party, candidate, or principle, or any club, society, or association. A violation of this section shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18310.)

Electioneering at or Near Polls Prohibited

No person, on election day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place, a satellite location under Section 3018, or an elections official's office:

- (a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.
- (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot.
- (c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.
- (d) Do any electioneering as defined by Section 319.5.

As used here, "100 feet of a polling place, a satellite location under Section 3018, or an elections official's office" means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots. Any person who violates any of these prohibitions is guilty of a misdemeanor. (§ 18370.)

Vandalism at Polling Places

No person, during any election, shall do any of the following:

- (1) Remove or destroy any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his or her ballot.
- (2) Remove, tear down, or deface the cards printed for the instruction of voters.

- (3) Remove, tear, mark or otherwise deface any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted.
- (4) Remove, tear down, or deface the signs identifying the location of a polling place or identifying areas within 100 feet of a polling place. (§ 18380(a).)

Any person who violates any of these prohibitions is guilty of a misdemeanor. (§ 18380(b).)

Imitation of Ballot Paper

A person who makes, uses, keeps, or furnishes to others, paper or cards watermarked or overprinted in imitation of ballot paper or ballot cards is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, two or three years, or by both that fine and imprisonment. (§ 18400.)

Every person who prints any ballot not in conformity with Chapter 2 (commencing with Section 13100) of Division 13, or who circulates or gives to another any ballot, knowing at the time that the ballot does not conform to Chapter 2 (commencing with Section 13100) of Division 13, is guilty of a misdemeanor. (§ 18401.)

Voter Disclosure of Ballot

Any person other than an elections official or a member of the precinct board who receives a voted ballot from a voter or who examines or solicits the voter to show his or her voted ballot is punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment. This section shall not apply to persons returning a vote-by-mail ballot pursuant to Sections 3017 and 3021 or persons assisting a voter pursuant to Section 14282. (§ 18403.)

Corruption of the Voting Process

Any person who commits fraud or attempts to commit fraud, and any person who aids or abets fraud or attempts to aid or abet fraud, in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony, punishable by imprisonment for 16 months or two or three years. (§ 18500.)

Any public official who knowingly violates any of the provisions of Division 18, Chapter 6 of the Elections Code, and thereby aids in any way the illegal casting or attempting to cast a vote, or who connives to nullify any of the provisions of that chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in this state and upon conviction shall be sentenced to a state prison for 16 months or two or three years. (§ 18501.)

Any person who in any manner interferes with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18502.)

Corruption of Voters – Promise of Employment

A person shall not directly or through another person give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to:

- (a) Refrain from voting.

- (b) Vote for any particular person.
- (c) Refrain from voting for any particular person.

A violation of any of the provisions of these prohibitions shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18520.)

Corruption of Voters – Receipt of Consideration

A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

- (a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person or measure.
- (b) Remained away from the polls.
- (c) Refrained or agreed to refrain from voting.
- (d) Induced any other person to:
 - (1) Remain away from the polls.
 - (2) Refrain from voting.
 - (3) Vote or refrain from voting for any particular person or measure.

Any person violating these prohibitions is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18521.)

Corruption of Voters – Payment or Promise by Controlled Committee

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

- (a) Induce any voter to:
 - (1) Refrain from voting at any election.
 - (2) Vote or refrain from voting at an election for any particular person or measure.
 - (3) Remain away from the polls at an election.
- (b) Reward any voter for having:
 - (1) Refrained from voting.
 - (2) Voted for any particular person or measure.
 - (3) Refrained from voting for any particular person or measure.
 - (4) Remained away from the polls at an election.

Any person or candidate violating these prohibitions is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18522.)

Bribery

A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, shall be used in bribery at any election, or knowingly pay or cause to be paid any money or other valuable thing to any person in

discharge or repayment of any money, wholly or in part, expended in bribery at any election. Any person violating this prohibition is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18523.)

A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, will be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, ward, or district, with intent to secure the vote of that person or to induce that person to vote for any particular person or measure. Any person violating this prohibition is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18524.)

Intimidation of Voters

Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18540(a).)

Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18540(b).)

No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:

- (1) Solicit a vote or speak to a voter on the subject of marking his or her ballot.
- (2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.
- (3) Photograph, video record, or otherwise record a voter entering or exiting a polling place.
(§ 18541(a).)

Any violation of the above prohibitions is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate these prohibitions is guilty of a felony. (§18541(b).)

For purposes of the above prohibitions, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots. (§ 18541(c).)

Every employer, whether a corporation or natural person, or any other person who employs, is guilty of a misdemeanor if, in paying his or her employees the salary or wages due them, encloses their pay in pay envelopes upon which or in which there is written or printed the name of any candidate or any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees. (§ 18542.)

Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the

purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison. (§ 18543(a).)

Every person who conspires to violate Section 18543, subdivision (a) is guilty of a felony. (§ 18543(b).)

Any person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, who is stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate city or county elections official is punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment. (§ 18544(a).)

This preceding paragraph shall not apply to any of the following:

- (1) An unarmed, uniformed guard or security personnel who is at the polling place to cast his or her vote.
- (2) A peace officer who is conducting official business in the course of his or her public employment or who is at the polling place to cast his or her vote.
- (3) A private guard or security personnel hired or arranged for by a city or county elections official.
- (4) A private guard or security personnel hired or arranged for by the owner or manager of the facility or property in which the polling place is located if the guard or security personnel is not hired or arranged solely for the day on which an election is held. (§ 18544(b).)

Any person who hires or arranges for any other person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, to be stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate elections official is punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment. This shall not apply to the owner or manager of the facility or property in which the polling place is located if the private guard or security personnel is not hired or arranged solely for the day on which the election is held. (§ 18545.)

As used in Division 18, Chapter 6, Article 3 (Section 18540-18548):

- (a) "Elections official" means the county elections official, registrar of voters, or city clerk.
- (b) "Immediate vicinity" means the area within a distance of 100 feet from the room or rooms in which the voters are signing the roster and casting ballots. (§ 18546.)

Corruption of Voting

Every person is guilty of a crime punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in county jail not exceeding one year, who:

- (a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at that election.
- (b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or

knowingly hands in two or more ballots folded together at that election.

- (c) Impersonates or attempts to impersonate a voter at an election. (§ 18560.)

Corruption of Voting – Assisting, Aiding or Abetting

Every person is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years who:

- (a) Procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote.
- (b) Aids or abets in the commission of any of the offenses mentioned in Section 18560. (§ 18561.)

Corruption of Voting – Member of the Public

A member of the public is guilty of a misdemeanor if he or she willfully attempts to ascertain the identity and ballot choices of a voter, or having observed or learned the identity of a voter, attempts to ascertain the ballot choices of that voter; opens a provisional or vote-by-mail ballot envelope containing a voted ballot in order to ascertain the voter's ballot choices; or makes or places a mark or device on a ballot or secrecy envelope in an attempt to ascertain the voter's ballot choices, while observing any of the following:

- (1) The processing of vote-by-mail ballots conducted pursuant to Chapter 2 (commencing with Section 15100) of Division 15.
- (2) The semifinal official canvass conducted pursuant to Chapter 3 (commencing with Section 15150) of Division 15.
- (3) The official canvass conducted pursuant to Chapter 4 (commencing with Section 15300) of Division 15.
- (4) A recount conducted pursuant to Chapter 9 (commencing with Section 15600) of Division 15. (§ 18562.5(a), (b).)

Corruption of Voting – Examination of Vote by Precinct Board Member

Every member of a precinct board is guilty of a misdemeanor who, prior to putting the ballot of a voter in the ballot box, commits any of the following:

- (a) Attempts to find out any name on the ballot.
- (b) Opens or suffers to be opened or examined the folded ballot of any voter which has been handed in.
- (c) Makes or places any mark or device on any folded ballot with a view to ascertaining the name of any person for whom the voter has voted. (§ 18562.)

Every member of a precinct board is guilty of a misdemeanor who, without the consent of a voter, discloses the name of any candidate the board member has discovered in his or her capacity as a member of the board to have been voted for by the voter. (§ 18563.)

Corruption of Voting – Tampering With Voting System

Any person is guilty of a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years who, before or during an election:

- (a) Tamper with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes.
- (b) Interferes or attempts to interfere with the secrecy of voting or ballot tally software program source codes.
- (c) Knowingly, and without authorization, makes or has in his or her possession a key to a voting machine that has been adopted and will be used in elections in this state.
- (d) Willfully substitutes or attempts to substitute forged or counterfeit ballot tally software program source codes. (§ 18564.)

The Secretary of State, Attorney General, and any local elections official in the county in which the act occurs, may bring a civil action against an individual, business, or other legal entity that commits any of the above specified acts of tampering with a voting system or voting equipment before, during, or after an election. (§ 18564.5.)

Any person who aids or abets in the commission of any of the offenses described in Section 18564 is punishable by imprisonment in the county jail for a period of six months or in the state prison for 16 months or two or three years. (§ 18565.)

Corruption of Voting – Forgery

Every person is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years who:

- (a) Forges or counterfeits returns of an election purported to have been held at a precinct where no election was in fact held.
- (b) Willfully substitutes forged or counterfeit returns of election in the place of true returns for a precinct where an election was actually held. (§ 18566.)

Corruption of Voting – Altering Returns

Every person who willfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters the returns, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years. (§ 18567.)

Corruption of Voting – Changing Ballots, Wrongfully Adding or Subtracting Ballots

Every person is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or by both that fine and imprisonment, who:

- (a) Aids in changing or destroying any poll list or official ballot.
- (b) Aids in wrongfully placing any ballots in the ballot container or in taking any therefrom.

- (c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot container, either before or after the ballots therein have been counted.
- (d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with intent to change the result of the election, or allows another to do so, when in his or her power to prevent it.
- (e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot container, or ballots lawfully polled or who willfully detains, mutilates, or destroys any election returns.
- (f) Removes any unvoted ballots from the polling place before the completion of the ballot count. (§ 18568.)

Every person who aids or abets in the commission of any of the offenses mentioned in Section 18566, 18567, or 18568 is punishable by imprisonment in the county jail for the period of six months or in the state prison for 16 months or two or three years. (§ 18569.)

Corruption of Voting – Interference With or Alteration of Posted Result

Every person is guilty of a misdemeanor who does any one of the following:

- (a) Removes or defaces any posted copy of the results of votes cast within the period of 48 hours from the official time fixed for the closing of the polls.
- (b) Delays delivery of or changes the copy of the result of votes cast that is to be delivered to the city or county elections official. (§ 18570.)

Corruption of Voting – Unlawful Acts of Counting Board

Any person acting on any counting board who refuses to obey any lawful order of the county elections official or his or her deputy is guilty of a misdemeanor, unless he or she is by his or her refusal guilty of a higher crime under the laws of this state. (§ 18571.)

Each counting board and its members are subject to the liabilities and penalties to which precinct boards or their members are subject where the votes and returns are counted at the precincts where they were polled. (§ 18572.)

Corruption of Voting – Misleading Assisted Voter

Every person is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years who furnishes any voter wishing to vote, who cannot read, with a ballot, informing or giving that voter to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any voter at any election by deceiving and causing him or her to vote for a different person for any office than he or she intended or desired to vote for. (§ 18573.)

It is a misdemeanor for a person who is providing care or direct supervision to an elder in a state-licensed or state-subsidized facility or program to coerce or deceive the elder into voting for or against a candidate or measure contrary to the elder's intent or in the absence of any intent of the elder to cast a vote for or against that candidate or measure. Here, "elder" has the same meaning as set forth in Section 15610.27 of the Welfare and Institutions Code. (§ 18573.5(a), (b).)

A violation of the preceding prohibition is punishable by imprisonment in a county jail not to exceed six months or by a fine not to exceed ten thousand dollars (\$10,000) per ballot containing a vote cast by the elder as a result of the coercion or deception or by both that imprisonment and fine, and nothing in the section containing this prohibition (Section 18573.5) shall preclude prosecution under any other provision. (§ 18573.5(c), (d).)

Corruption of Voting – Refusal to Answer Precinct Board Questions

Every person who, after being required by the precinct board at an election, refuses to be sworn or, being sworn, refuses to answer any pertinent questions propounded by the board touching the right of another to vote, is guilty of a misdemeanor. (§ 18574.)

Corruption of Voting – Falsely Acting as Elections Official

Every person is guilty of a felony, and on conviction shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three or four years, who at any election:

- (a) Without first having been appointed and qualified, acts as an election officer.
- (b) Not being an election officer, performs or discharges any of the duties of an election officer in regard to the handling, counting, or canvassing of any ballots. (§ 18575.)

Corruption of Vote-By-Mail Voting

Any person who willfully (a) interferes with the prompt delivery of a completed vote-by-mail ballot application, (b) retains a completed vote-by-mail ballot application, without the voter's authorization, for more than three days excluding weekends and state holidays, or by the deadline for return of vote-by-mail voters' ballot applications, whichever is earlier, or (c) denies an applicant the right to return his or her own completed vote-by-mail ballot application to the local elections official having jurisdiction over the election, is guilty of a misdemeanor. (§ 18576.)

Any person having charge of a completed vote-by-mail ballot who willfully interferes or causes interference with its return to the local elections official having jurisdiction over the election is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding \$10,000, or by both the fine and imprisonment. (§ 18577.)

Any person who applies for, or who votes or attempts to vote, a vote-by-mail ballot by fraudulently signing the name of a fictitious person, or of a regularly qualified voter, or of a person who is not qualified to vote, is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, a by fine not exceeding one thousand (\$1,000), or by both that fine and imprisonment. (§ 18578.)